



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/174536

PRELIMINARY RECITALS

Pursuant to a petition filed May 20, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 21, 2016, at Sheboygan, Wisconsin.

The issue for determination is whether the agency correctly added the father of the petitioner's children to her FoodShare (FS) case, which caused her FS benefits to terminate effective July 1, 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Sheboygan County.
2. On March 21, 2016 the agency received information that the children's father picks the children up from daycare.

3. The agency then looked at child support information. This information showed that the father's address was the same as the petitioner's address. The petitioner also reported to the child support agency on January 25, 2016 that she and the father were married and living together.
4. On March 31, 2016 the petitioner provided a hand written letter from the father's mother stating that the father was living in her home on [REDACTED] in Milwaukee, WI.
5. The father worked in Plymouth Wisconsin. All of the father's mail was sent to the petitioner's address. The father reported the petitioner's address to his employer. The father's emergency contact information at the children's school also listed the petitioner's address. The father had a speeding ticket in November 2015. The address listed for the father on Wisconsin Circuit Court Access Program for the speeding ticket is the petitioner's address.
6. The father was on probation. His probation agent stated that he reported his mother's address on [REDACTED] street in Milwaukee, WI. The probation agent did not conduct a home visit to verify the father's residence.
7. Following their investigation, the agency added the father to the petitioner's case. The petitioner's FS benefits terminated effective July 1, 2016.
8. On May 20, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

The issue in this case is whether the father was in the home. The petitioner disputed the termination of her FS benefits by maintaining that the father was not in her home. She did not dispute the father's income or that she was ineligible for FS benefits when the father and his income were added to her case. Her only dispute was that he should not have been added to her FS case.

A FS household includes all people who are living in the same home. *FoodShare Wisconsin Handbook (FSWH)*, § 3.3.1.1. A food unit includes all people living in the household who make and prepare meals together. *Id.* Parents must be included in the same food unit as their children. *FSWH*, § 3.3.1.3.

This case is purely a factual dispute about whether the children's father was living in the petitioner's home. The petitioner maintains that although the father worked in Plymouth, he commuted from Milwaukee. The agency argues that all of the father's mail was being sent to the petitioner home, the father reported the petitioner's address to his employer, the father's emergency contact information at the children's school was the petitioner's address, and he provided the petitioner's address when stopped for a speeding ticket in November 2015. I agree with the agency. Although the father reported a different address to his probation agent, the agent never conducted a home visit to verify that residence. .

The father and the petitioner have every incentive to maintain that the father was not and is not living with the petitioner. However, based upon the evidence presented I do not find the petitioner's testimony credible. The father does not get to use an address, and then state that he does not live at that address. The father was using this address with multiple agencies and organizations. In addition, the petitioner even informed child support that the father was living in her home.

If this situation changes, and the father no longer lives with the petitioner, the petitioner may reapply for FS benefits. The agency would need to verify that he no longer lived in the home.

CONCLUSIONS OF LAW

The agency correctly terminated the petitioner's FS benefits effective July 1, 2016 because the children's father was living in her home.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of July, 2016

\s\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 5, 2016.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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